

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

IN RE: §
JOSHUA DAVID DEROCHE § CAUSE NO. 23-10454
xxx-xx-2176 § (CHAPTER 13)
312 Shannon Lane §
Nederland, Texas 77627 §
DEBTOR §

APPLICATION TO RETAIN SPECIAL COUNSEL

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion/Objection/Application unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Joshua David DeRoche, Debtor hereinafter called Movant, respectfully show the Court the following:

1. Movant filed his Chapter 13 Petition on November 9, 2023.
2. Movant, Joshua David DeRoche, was involved in a District Court proceeding involving the collection of a debt by CMI Enterprises, LLC. in Cause No. 22-CV-2292, in the 122nd District Court, Galveston County, Texas. A Final Judgment was rendered in the lawsuit on

October 31, 2023. Motions to Disregard and for Judgment Notwithstanding the Verdict, for New Trial, and to Modify the Judgment are pending. In the event the court denies some or all of the motions, Movant intends to file an appeal. He has the need to employ counsel to proceed on the Motions and to file the necessary appeal, if needed.

3. The Movant employed Robert A. Whitley, Attorney at Law, P.L.L.C. on or about December 1, 2023, to represent the interests of the Movant, if any, in the above entitled bankruptcy estate to file an appeal in the district court proceeding. The only work the attorney has done on the case was to simply file the Motion within the time required by law to preserve error for and the right to appeal, but no additional work has been done on the case since the filing of the Bankruptcy case herein to allow approval of the employment. The attorney has had experience in matters of this character and Movant believes that this attorney is qualified to represent him and the bankruptcy estate in this matter. The attorney represents no interest adverse to the Chapter 13 Trustee or this bankruptcy estate and his employment would be in the best interest of this Estate. See Exhibit "A" attached to this Application. The prosecution of this appeal is necessary for the successful reorganization of the Movant. The attorney's mailing address, state bar number, telephone number and email address is:

Robert A. Whitley
Robert A. Whitley, Attorney at Law, P.L.L.C.
12621 Featherwood Dr., Suite 165
Houston, Texas 77034
State Bar #24056522
Telephone: (281) 741-522
E-Mail: robert@whitlegal.com

4. The professional services to be rendered by the above-named attorney would include the following:

- (a) To assist the Movant in the handling of the appeal of the verdict.

(b) To perform all other legal services for Movant in connection with the appeal and directly related matters which may be necessary and in the best interest of the Debtor's bankruptcy estate.

5. The approval of this Application will not prejudice any parties-in-interest.

6. After the performance of such legal services, or during the performance, upon proper application, the above-named attorney should be allowed reasonable compensation for service rendered as follows: \$5,000.00 retainer, and hourly rates as follows: Robert A. Whitley, \$325.00 per hour; and paralegal rates of \$95.00 per hour. Such fees and expenses shall be requested to be allowed as an administrative expense in this bankruptcy proceeding. A copy of the Contractual Agreement for Legal Services is attached hereto as Exhibit "A".

WHEREFORE, the Movant prays that he be authorized to employ and appoint Robert A. Whitley, Attorney at Law, P.L.L.C., to represent the Movant and the above-entitled bankruptcy estate in connection with the appeal of the above referenced lawsuit, and that he have such other and further relief as is just.

DATED: January 17, 2024

Respectfully submitted,

**MAIDA LAW FIRM, P.C.
4320 Calder Avenue
Beaumont, Texas 77706
(409) 898-8200; Fax No. (409) 898-8400**

BY: /s/ Frank J. Maida
Frank J. Maida
State Bar No. 12845600

ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Application has been properly forwarded to all parties in interest, by electronic mail or first class mail, on this the 17th day of January 2024.

/s/ Frank J. Maida _____

Frank J. Maida

CONTRACTUAL AGREEMENT FOR LEGAL SERVICES

Joshua DeRoche, the undersigned, hereafter called "Client," by execution of this Agreement has this day employed Robert A. Whitley, Attorney at Law, P.L.L.C., hereinafter called "Attorney," to represent Client in the matter described below:

The appeal to the Texas Court of Appeals of the judgment in Cause No. 22-CV-2292, In the 122nd Judicial District Court, Galveston, County, Texas.

By execution of this agreement, Client also appoints Attorney as Client's agent and lawful attorney-in-fact in connection with this matter.

The rates charged by the Attorney and staff are as follows:

Robert A. Whitley	\$325.00/hr.
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Paralegal	\$95.00/hr.
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In addition to legal fees, Client also agrees to pay all reasonable expenses incurred by Attorney in this matter, including but not limited to filing fees, court reporter fees, certified postage, records reproduction fees, expert fees, travel outside of Harris County, Texas, etc.

Responsibility to provide legal services will be accepted and work will begin when Attorney receives the signed Agreement and **\$5,000.00** as an advance deposit against anticipated fees and expenses. Hourly fees and expenses will be deducted from the amount on deposit. In the event the amount on deposit falls below **\$1,500.00**, Attorney, in his sole discretion, may ask for additional deposits based on Attorney's estimate of fees and expenses reasonably anticipated for the ninety-day period following the request. Or, Attorney will invoice Client for amounts above and beyond the original deposit. Attorney will provide Client with monthly invoices, detailing the fees and expenses charged and make account statements, reflecting the amount remaining on deposit or amount owed, available upon request.

This Agreement does not include an appeal to the Texas Supreme Court or the defense of an appeal thereto filed by any other party. In the event of such appeal, Client wishes to retain Attorney, Client and Attorney will enter into a separate fee agreement regarding that matter.

Attorney is authorized to employ other persons or firms deemed necessary for the proper handling of this matter, at Client's expense, but shall not obligate Client for any expense in excess of \$0 without Client's prior approval.

Invoices are due to be paid upon receipt. Unpaid legal fees and expenses, if not paid within ten (10) days from receipt of the invoice or statement shall accrue interest at the rate of ten (10) percent per annum until paid.

Should Attorney find it necessary to resort to litigation in order to collect the attorney's

fees and expenses owed pursuant to this Agreement, Client shall be liable for reasonable attorney's fees, costs, and expenses thereby incurred. Venue for any action shall be in Harris County, Texas.

Attorney has the right to cease legal work and withdraw from representing Client and keep all funds received for legal services and expenses if Client does not make payments as requested by Attorney. Attorney may also withdraw from case as allowed under relevant rules of professional responsibility.

Any sums collected on behalf of the Client, when received by Attorney, shall be first credited against Client's obligation to Attorney.

No promise or guarantee has been made as to the outcome of this matter.

TAX DISCLOSURE AND ACKNOWLEDGMENT:

THE CLIENT IS ADVISED TO OBTAIN INDEPENDENT AND COMPETENT TAX ADVICE REGARDING THESE LEGAL MATTERS SINCE LEGAL TRANSACTIONS CAN GIVE RISE TO TAX CONSEQUENCES.

THE UNDERSIGNED LAW FIRM AND ATTORNEY HAS NOT AGREED TO RENDER ANY TAX ADVICE AND IS NOT RESPONSIBLE FOR ANY ADVICE REGARDING TAX MATTERS OR PREPARATION OF TAX RETURNS, OR OTHER FILINGS, INCLUDING, BUT NOT LIMITED TO, STATE AND FEDERAL INHERITANCE TAX AND INCOME TAX RETURNS.

FURTHERMORE, THE CLIENT SHOULD OBTAIN PROFESSIONAL HELP REGARDING THE VALUATION AND LOCATION OF ALL ASSETS WHICH MAY BE THE SUBJECT OF A LEGAL MATTER INCLUDING BUT NOT LIMITED TO PENSIONS, EMPLOYMENT BENEFIT AND PROFIT SHARING RIGHTS THAT MAY BE CONTROLLED BY ANY OTHER PARTY TO THE LEGAL MATTER.

Client has read this Agreement and agrees to each of its terms and conditions.

SIGNED AND ACCEPTED

BY: Joshua DeRoche
Joshua DeRoche

BY: */s/ Robert A. Whitley*
Robert A. Whitley, Attorney

Signature: 
Joshua DeRoche (Dec 1, 2023 09:53 CST)

Email: josh@poolaidsetx.com

2023-11-30 DeRoche Fee Agreement (Appeal)

Final Audit Report

2023-12-01

Created:	2023-12-01
By:	Robert Whitley (robert@whitlegal.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAP78tY4ckrPTNuSN6bhB72m3vvsMpLMh-g

"2023-11-30 DeRoche Fee Agreement (Appeal)" History

- 📄 Document created by Robert Whitley (robert@whitlegal.com)
2023-12-01 - 3:49:01 PM GMT- IP address: 50.208.86.210
- ✉️ Document emailed to Joshua DeRoche (josh@poolaidsetx.com) for signature
2023-12-01 - 3:51:19 PM GMT
- 👁️ Email viewed by Joshua DeRoche (josh@poolaidsetx.com)
2023-12-01 - 3:53:10 PM GMT- IP address: 68.206.59.233
- ✍️ Document e-signed by Joshua DeRoche (josh@poolaidsetx.com)
Signature Date: 2023-12-01 - 3:53:30 PM GMT - Time Source: server- IP address: 68.206.59.233
- 🌐 Agreement completed.
2023-12-01 - 3:53:30 PM GMT



Adobe Acrobat Sign

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BEAUMONT DIVISION**

IN RE:	§	
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JOSHUA DAVID DEROCHE	§	CAUSE NO. 23-10454
xxx-xx-2176	§	(CHAPTER 13)
312 Shannon Lane	§	
Nederland, Texas 77627	§	
	§	
DEBTOR	§	
	§	

**DECLARATION OF DISINTERESTEDNESS OF COUNSEL
TO THE BANKRUPTCY ESTATE PURSUANT TO
11 U.S.C. §327(a) AND BANKRUPTCY RULE 2014**

Robert A. Whitley, Attorney at Law, P.L.L.C., (“Whitley”), submits this declaration of disinterestedness of counsel to the Debtor under penalty of perjury pursuant to 11 U.S.C. §327(a) and Bankruptcy Rule 2014. Dishon declares:

1. “I am an attorney at law duly licensed to practice in the State of Texas.
2. “My mailing address is 12621 Featherwood Dr., Suite 165, Houston, Texas 77034.
3. “I am an attorney with a practice that heavily emphasizes in trial law. I have the skill and expertise to render advice to Joshua David DeRoche with respect to a lawsuit to collect by CMI Enterprises, Inc., due to a final judgement dated 10/31/2023.
4. “On or about December 1, 2023, Whitley was engaged by Joshua David DeRoche to provide legal advice, counsel and assistance, prepare and possibly file all appropriate pleadings and other legal papers, represent Debtor in proceedings before the Courts of Law and in any other judicial or administrative proceeding, and prosecute claims to settlement or final judgment and perform any and all functions which may seem reasonably necessary.
5. “To the best of my knowledge, neither I nor any other person associated with me has represented or otherwise dealt with, or is now representing and otherwise dealing with, any entity that is or may consider itself a creditor, or other party in interest in connection with the Debtors, the Debtors’ creditors, or any other parties in interest, or the attorneys and accountants for such creditors, or other parties in interest, the United States Trustee, or any person employed in the office of the United States Trustee. I am a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code.
6. “To the best of my knowledge, neither I nor any other person associated with me represents or holds any interest adverse to the Debtor or his estate or has any interest

materially adverse to the interest of any class of Debtor's creditors or other parties in interest.

7. "I declare under penalty of perjury that the foregoing is true and correct."

Executed on the 16th day of

January, 2024.

BY:

Robert A. Whitley

Robert A. Whitley, Attorney at Law, P.L.L.C.

State Bar No. 24056522

12621 Featherwood Dr., Suite 165

Houston, Texas 77034

(281) 741-5225 (Office)

Email: robert@whitlegal.com

SUBSCRIBED AND SWORN to before me this the 16 day of JANUARY, 2024.

Notary Public, State of Texas

Label Matrix for local noticing

0540-1

Case 23-10454

Eastern District of Texas

Beaumont

Wed Jan 17 11:38:34 CST 2024

CMI Enterprises, LLC

c/o Foster Yarborough

917 Franklin, Suite 220

Houston, Texas 77002-1741

Attorney General

Taxation Division - Bankruptcy

Box 12548 - Capitol Station

Austin, TX 78711-2548

CMI Enterprises, LLC

Foster Yarborough PLLC

917 Franklin Street

Suite 220

Houston, TX 77002-1741

(p)CAINE & WEINER COMPANY

12005 FORD ROAD 300

DALLAS TX 75234-7262

(p)JPMORGAN CHASE BANK N A

BANKRUPTCY MAIL INTAKE TEAM

700 KANSAS LANE FLOOR 01

MONROE LA 71203-4774

Joshua David DeRoche

312 Shannon Ln.

Nederland, TX 77627-2900

John P. Dillman

P.O. Box 3064

Houston, TX 77253-3064

(p)HEADWAY CAPITAL

175 W JACKSON BLVD SUITE 1000

CHICAGO IL 60604-2863

Internal Revenue Service

Centralized Insolvency Operations

P.O. Box 7346

Philadelphia, PA 19101-7346

JPMorgan Chase Bank, N.A.

s/b/m/t Chase Bank USA, N.A.

c/o National Bankruptcy Services, LLC

P.O. Box 9013

Addison, Texas 75001-9013

Jefferson County

Linebarger Goggan Blair & Sampson LLP

c/o John P. Dillman

P.O. Box 3064

Houston, TX 77253-3064

Jefferson County

c/o John P. Dillman

Linebarger, Goggan, Blair & Sampson, LLP

P.O. Box 3064

Houston, TX 77253-3064

Jefferson County TAC

P. O. Box 2112

Beaumont, TX 77704-2112

James W. King

Offerman & King, L.L.P.

6420 Wellington Place

Beaumont, TX 77706-3206

Lloyd Kraus

Plaza Tower

110 N. College Ave., 12th Floor

Tyler, TX 75702-7226

Frank J. Maida

Maida Law Firm, PC

4320 Calder Avenue

Beaumont, TX 77706-4631

Neches Federal Credit Union

c/o James W. King

6420 Wellington Place

Beaumont, TX 77706-3206

Neches Federal Credit Union

1955 Dowlen Rd.

Beaumont, TX 77706-3330

Neches Federal Credit Union

Attn: Bankruptcy

P.O. Box 1118

Port Neches, TX 77651-1118

State Comptroller of Texas

c/o Office of the Attorney General

P. O. Box 12548

Austin, TX 78711-2548

Texas Workforce Commission

TWC Building - Tax Dept.

Austin, TX 78778-0001

U.S. Attorney General

Department of Justice

Main Justice Building

10th & Constitution Ave., NW

Washington, DC 20530-0001

US Trustee

Office of the U.S. Trustee

110 N. College Ave.

Suite 300

Tyler, TX 75702-7231

(p)UNITED STATES ATTORNEY'S OFFICE

Attn: Michael W. Lockhart

500 Fannin St, Suite 1250

Beaumont, TX 77701-3101

Patrick Yarborough

Foster Yarborough PLLC

917 Franklin Street

Suite 220

Houston, TX 77002-1741

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Caine & Weiner
Attn: Bankruptcy
5805 Sepulveda Blvd 4th Floor
Sherman Oaks, CA 91411

Chase Card Services
Attn: Bankruptcy
P.O. 15298
Wilmington, DE 19850

Headway Capital
175 W Jackson Blvd Suite 1000
Chicago, IL 60604

United States Attorney
Eastern District of Texas
550 Fannin, Suite 1250
Beaumont, Texas 77701

End of Label Matrix	
Mailable recipients	25
Bypassed recipients	0
Total	25